A Higher Purpose:
Censorship and Intellectual Freedom Today

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This is not legal advice. Always consult an Attorney licensed to practice law in your jurisdiction.

The views and opinions expressed by the presenter are his alone and may not necessarily reflect the views of the Sacramento Public Library Authority, the Freedom to Read Foundation, the American Library Association, or the Georgia Library Association.
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The First Amendment to the U.S. Constitution
15 December 1791
Notable First Amendment Cases
Schenck v. United States (1919)

“...it is a fact that a man in a crowded auditorium, or any theatre, who yells ‘fire’ and there is no fire, and a panic ensues and someone is trampled to death, may be rightfully indicted and charged with murder...”

Justice Oliver Wendell Holmes, Jr.
Cox v. New Hampshire (1941)

The government has a right to impose time, manner, and place restrictions to ensure the order and safety of residents as long as these restrictions are based on uniform, nondiscriminatory standards and not based on the content of the message.

Chief Justice Charles E. Hughes
“Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech, though not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest.”

Justice William O. Douglas
Terminiello v. City of Chicago (1949)

“A function of free speech under our system is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."

Justice William O. Douglas
Jacobellis v. Ohio (1964)

"I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligibly doing so. But I know it when I see it, and the motion picture involved in this case is not that.”

Justice Potter Stewart
Tinker v. Des Moines (1969)

Supreme Court enshrined students free speech rights

Any government restriction to the first amendment must meet the three pronged test:

- **Content Neutral**: Cannot (dis)favor one viewpoint or group
- **Alternative channels**: Rules must allow for other avenues of speech
- **Narrowly tailored**: Must be least restrictive

Content Neutral

Cannot (dis)favor one viewpoint or group

Alternative channels

Rules must allow for other avenues of speech

Narrowly tailored

Must be least restrictive
Sund v. City of Wichita Falls (2000)

- Not a Supreme Court case (US District Court)
- Organized efforts to remove materials violate the law
- Moving materials to other parts of the library could be considered censorship
Defining Obscenity
Comstock Act (1873)

- Defined contraceptives as obscene and illicit
- Federal offence to mail or bring across state lines birth control
- Made it illegal to sell, publish, or possess an obscene book but did not define obscenity
1. You will not marry during the term of your contract.
2. You are not to keep company with men.
3. You must be home between the hours of 8 P.M. and 6 A.M. unless attending a school function.
4. You may not loiter downtown in ice cream stands.
5. You may not travel beyond the city limits unless you have the permission of the chairman of the board.
6. You may not ride in a carriage or automobile with any man unless he is your father or brother.
7. You may not smoke cigarettes.
8. You may not dress in bright colors.
9. You may under no circumstances dye your hair.
10. You must wear at least two petticoats.
11. Your dresses must not be any shorter than two inches above the ankle.
12. To keep the school room neat and clean, you must: sweep the floor at least once daily; scrub the floor at least once a week with hot soapy water; clean the blackboards at least once a day; and start the fire at 7 A.M. so the room will be warm by 8 A.M.
**Regina v. Hicklin (1868)**

**Hicklin Test:** A work could be considered obscene if any portion of it was obscene regardless of context.

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**Roth v. United States (1957)**

Whether the average person, applying contemporary community standards would find that the material appeals to a prurient interest in sex, and whether the material was utterly without redeeming social value.

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**Miller v. California (1973)**

**Miller Test:** A work could be considered obscene if three conditions are met.
Miller Test

1. Whether the average person applying contemporary community standards would find the work, \textit{taken as a whole}, appeals to the prurient interest;

2. Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and

3. Whether the work, \textit{taken as a whole}, lacks serious literary, artistic, political or scientific value.
Many who rallied in Sacramento Monday see their movement as a biblical calling — they answer to God, not the government — and believe that the state is undermining the bedrock principle of local control of schools.
Conservatives join liberals in ‘quiet and polite’ Idaho protest to protect their library from book-banners

But they have made their feelings known at library board meetings. “Things need to change,” one man told the board at a meeting in late August. “Otherwise, you bring curses upon yourselves. Period. From the Most High.”

And at a meeting in July, Donna Capurso, a local realtor, said this: “My job is to protect our kids from sexual deviants, who will be drawn to our library if inappropriate sexual material is on our library shelves.”
Hundreds of people took to Facebook in response to Lankford’s and the church’s beliefs — on the website, he called drag queens “adult perverts with a penchant for sexualizing children” and called them “mentally disturbed and morally degenerate.”

Before the reading, Lankford said he was “surprised but thankful” that he could hold the event, which he said is not meant to spread hate but rather to allow them to “live as Christians publicly,” as the Bible tells them.

“I thought to myself, this is a wonderful opportunity for us to encourage children to love books, to also to have learning and to also be a Christian in public,” Lankford said in an interview. “Just as Christians, we worship on Sunday, but the Bible tells us that all of our life is worship, whether we eat or whether we drink, everything is done to the glory of God. So we want to be here to the glory of God in our neighborhood.”

Because “gender is a hot issue,” Lankford understands the response to his event. But it’s become more difficult to have “any meaningful dialogue,” he added.

“The polarization that’s happening in the country is unbelievable. Everything seems to devolve into left vs. right, conservative vs. liberal, and that’s not my goal, to engage in cultural war,” he said. “My goal is just to teach our children in the community and our children who God is, and how he has a great plan for their life and loves them.”
STOP promoting unnatural Vice and Immorality to our Children!

A man in our library dressed as an overly sexualized woman is part of the LGBTQ agenda in their attempt to groom and sexualize our young, innocent children.

We must peacefully and legally say NO to use our library to promote the trans-end homosexual agenda of indecency, impurity and unnatural vice.

“This is gonna be the grooming of the next generation.”

- Drag Queen Dylan Ratoff

Join us for a Rosary Rally

Where: St. Charles City - County Library Administration
77 Boone Hills Drive,
Saint Peters, MO. 63376

When: Tuesday, August 15th 2023 at 4:30 PM

Please gather on the public sidewalk.

Contact Rally Captain Rachel at 303-815-3946,
TPP-ANF at 844-830-3570 or email protest@TPP.org for more information.

Our public rosary will be peaceful and legal, asking for God’s mercy and offering reparation.

Please forward this to everyone you know and ask them to attend this very important rally!
Top 13 Most Challenged Books of 2022

[Images of book covers]

ALAOrgBBBooks

American Library Association
1. GENDER QUEER by Maia Kobabe
   REASONS: LGBTQIA+ content, claimed to be sexually explicit

2. ALL BOYS AREN'T BLUE by George M. Johnson
   REASONS: LGBTQIA+ content, claimed to be sexually explicit

3. THE BLUEST EYE by Toni Morrison
   REASONS: rape, incest, claims to be sexually explicit, EDI content

4. FLAMER by Mike Curato
   REASONS: LGBTQIA+ content, claimed to be sexually explicit

5. LOOKING FOR ALASKA by John Green
   REASONS: claimed to be sexually explicit, LGBTQIA+ content

6. THE PERKS OF BEING A WALLFLOWER by Stephen Chbosky
   REASONS: claimed to be sexually explicit, LGBTQIA+ content, rape, drugs, profanity
LAWN BOY by Jonathan Evison
REASONS: LGBTQIA+ content, claimed to be sexually explicit

THE ABSOLUTELY TRUE DIARY OF A PART-TIME INDIAN by Sherman Alexie
REASONS: claimed to be sexually explicit, profanity

OUT OF DARKNESS by Ashley Hope Perez
REASON: claimed to be sexually explicit

A COURT OF MIST AND FURY by Sarah J. Maas
REASON: claimed to be sexually explicit

CRANK by Ellen Hopkins
REASONS: claimed to be sexually explicit, drugs

ME AND EARL AND THE DYING GIRL by Jesse Andrews
REASONS: claimed to be sexually explicit, profanity

THIS BOOK IS GAY by Juno Dawson
REASONS: LGBTQIA+ content, claimed to be sexually explicit
JANUARY 1 – AUGUST 31, 2023

92%

OF THE BOOKS CHALLENGED WERE PART OF ATTEMPTS TO CENSOR MULTIPLE TITLES

OFFICE FOR Intellectual Freedom
American Library Association
JANUARY 1 – AUGUST 31, 2023

695

ATTEMPTS TO BAN OR RESTRICT LIBRARY MATERIALS AND SERVICES

OFFICE FOR Intellectual Freedom
American Library Association
Number of Unique Titles Challenged in the U.S. by Year

- 378 in 2000
- 259 in 2005
- 262 in 2010
- 190 in 2015
- 223 in 2020
- 2,571 in 2022
- 1,858 in 2021
- 4,240 in 2023

American Library Association
Office for Intellectual Freedom
Meeting Rooms and Community Groups

Everything you wanted to know but were afraid to ask
Drag Queen Story Hour disrupted by men shouting slurs, authorities say

The Alameda County Sheriff's Office says it has opened a hate crime investigation into the incident, which took place at an event for children and families.

A Drag Queen Was Interrupted By A Right-Wing Group During A Library's Story Hour, And Police Are Investigating

Deputies: Proud Boys disrupted drag queen storytelling at San Lorenzo library
<table>
<thead>
<tr>
<th>Designated Public Forum</th>
<th>Limited Public Forum</th>
<th>Traditional Public Forum</th>
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<tbody>
<tr>
<td>A place held open by the government for speech; may be either unlimited or limited.</td>
<td>Open for speech, but within certain limits.</td>
<td>A public area that is a traditional setting for speech and the exchange of ideas.</td>
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Libraries should be aware of First Amendment rules around outside gathering places like plazas.

City Council or Library Board Meetings fall under this category.

Library meeting room is a designated public forum (Concerned Women for America, Inc. v. Lafayette County, 883 F.2d 32 (5th Cir. 1989)).
Time, Manner, and Place Restrictions

- **Content Neutral (includes topic and group)**
  - Cannot have onerous requirements based solely on potential issues
  - You can restrict based on residency or “cultural, civic, and educational” purposes

- **Limits on size and volume (safety and well being)**
  - Reasonableness is a standard
  - You can also specify frequency, advertising standards, etc.

- **Limit on location (public forum?)**
  - Reasonableness is a standard
  - Can be only during library hours or only certain meeting rooms for the public versus library only use
Freedom of speech in America

- The First Amendment protects all speech, even hateful and abhorrent speech
  - What is permissible speech?
  - Who keeps the list?
  - Supreme Court *Snyder v. Phelps (2011)*: Speech cannot be restricted even if it is upsetting

- We do have clear definitions for:
  - Defamation
  - Slander/Libel
  - Fighting Words and true threats
    - Has a standard of “reasonableness”
  - Discriminatory speech
Hate speech in America

- Not clearly defined in US law, but has been defined narrowly in some situations, but is most often not illegal
  - Public displays such as burning of crosses or swastikas

- No official hate group listing
  - These are compiled by non-government agencies (Southern Poverty Law Center, etc) and have no legal basis
Our Higher Purpose

Why We Do What We Do
Drag story hour: Proud Boys targeted a Bay Area library last year. This year, both sides rallied

While moments of the day’s two opposing protests were tense and the fear of potential violence loomed, Alameda County Librarian Cindy Chadwick, said the library was prepared for the political actions. The day ended without ever boiling over into physical violence.

In a roundabout way, Chadwick said that while the day’s events were fraught, its backdrop did demonstrate the power of the national library system to be a platform for civic discourse.

“It's democracy in action, right?” said Chadwick. “This is exactly the place where these kind of things should happen. It’s a public library. [...] This is a place for those for different viewpoints, for different backgrounds to meet.”
Illinois becomes first state to penalize libraries that ban books

North Fort Myers High School teacher resigns over book ban
We do not protect the right to read *A* particular book, we protect the right to read *ANY* book.
“Freedom for the thought we hate.”

–Justice Oliver Wendell Holmes

United States v. Schwimmer (1929)
Questions?

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